

### **REMARKS**

Apparently the PTO records for this case became completely scrambled. This case is the U.S. National Phase of a PCT filing (in English) designating the United States. The first named inventor is Yuichi Murayama and the case was filed from Los Angeles, California on 3 August 2001. The correct priority date was 5 February 1999. The PTO postcard was received, as was a notification to file missing parts. The notice to file missing parts contained the correct priority date and inventor's name. Nevertheless, on 8 December 2003 the first office action in this case was mailed to Baker & Botts in New York. Although the correct application number was given on the Office Action, both the priority date and the inventor's name were incorrect.

In its first paragraph the Office Action refers to a claim of foreign priority. Applicants are somewhat puzzled as the instant application is a U.S. National Phase of a PCT application designating the U.S. and originally filed in English (RO/US). It would appear that the reference to foreign priority is based on the Werr application whose data have become mixed with the instant application. Applicants request the Examiner to correct the case file to indicate that there is no need for a certified copy of a (non-existent) foreign application.

### **Current Status of Claims**

Claims 1 and 16 have been canceled. Claims 2-14 have been amended. Claims 2-15 remain in prosecution.

### **Rejections under 35 USC § 102**

In the Office Action claims 1-10, 13, 14 and 16 were rejected under 35 USC § 102(b) as having been anticipated by Kubota (EP0724888).

As explained below under "Rejections under 35 USC § 103," Applicants

believe that none of the cited prior art is effective to negate the patentability of the method of claim 15. Therefore, claims 1 and 16 have now been cancelled and the remaining claims have been amended to depend from claim 15. Applicants respectfully submit that claim 15 is allowable. Therefore, the other remaining claims should also be allowable.

### **Rejections under 35 USC § 103**

In the Office Action claims 11, 12, and 15 were rejected under 35 USC § 103(a) as being unpatentable over Kubota in view of Tautvydas et al. (U.S. Patent No. 5,407,455).

Applicants respectfully point out that Tautvydas et al. teach filling the lumen of various prosthesis with an organic polymer having properties similar to that disclosed in the instant application. The prosthesis involved is "a soft tissue prosthesis such as a breast implant." The major intention of this invention (see columns 1 and 2) is to provide a filler that has a natural feel, helps prevent accidental rupture, is non-toxic as opposed to silicones, and prevents the formation of fibrous scar structures. Applicants respectfully contend that use of a polymer to fill breast prostheses with an organic polymer in no way renders obvious the filling of vascular abnormalities with a similar polymer. The polymer in the prostheses is generally not in contact with body tissues. Even though the reference reveals that the material is relatively non-toxic, it in no way suggests that this material would be an effective filler for life threatening vascular abnormalities such as brain aneurysms. It is known in the art that aneurysms are exceptionally difficult to fill safely and successfully. Filling implants merely fills a bladder-like sack with a "natural feeling" material. Filling an aneurysm closes off a blood channel that is in great danger of bursting or leaking. Successful filling of artificial breast implants in no way suggests success with clocking off a vascular aneurysm. Applicants respectfully request that the rejection of claim 15 as being obvious in view of Tautvydas et al. be withdrawn.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested. If for any reason the Examiner still finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the listed Los Angeles telephone number to discuss the steps necessary for placing the application in condition for allowance.

You are hereby authorized to charge any fees due and refund any surplus fees to Deposit Account No. 50-2899, referencing docket number 16032.902140.

Respectfully submitted,

LINER YANKELEVITZ SUNSHINE & REGENSTEIF LLP

Date: 19-August-2004

By: Stefan J. Kuchanski  
Stefan J. Kuchanski  
Registration No. 36,568  
Attorney for Applicants

1100 Glendon Avenue, 14<sup>th</sup> Floor  
Los Angeles, CA 90024-3503  
Telephone: (310) 500-3548  
Facsimile: (310) 500-3501